

ORIGIN:

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DEPARTMENT OF STATE

AIRGRAM

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NO: A-46.

SUBJECT: Uruguay and Argentina Sign Declaration Establishing Exterior Limit of Rio de la Plata.

REF: EmbDesp No. 658 of February 3, 1961.

TO: The American Embassy, MONTEVIDEO

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DEC 14 12 07 PM '62

The above referenced despatch enclosed the original Spanish text and a translation of the Declaration signed by Uruguay and Argentina for the purpose of establishing the exterior limit of the Rio de la Plata. The Department's airgram No. G-29 of March 3, 1961 indicated that it did not wish to take any official position on the Declaration at that time. The reasons which prompted that decision are no longer pertinent and the Department now considers that it must make known to the governments concerned its official position with respect to the Declaration. The Embassy is therefore instructed to present to the Foreign Office the following note with the appropriate complimentary introduction and conclusion.

"The Declaration signed on January 30, 1961, between the Ministry of Foreign Affairs and the Argentine Ambassador purports to lay down the exterior limit of the River Plate dividing it from the Atlantic Ocean. The dividing line as defined in paragraph 1 of the Declaration is an imaginary straight line which unites Punta del Este in Uruguay with Punta Rasa of the Cabo San Antonio in Argentina.

Paragraph 2 of the Declaration provides that the dividing line will also be the baseline from which the territorial sea is measured.

The effect of these provisions if valid would be to reduce all of the waters of the River Plate estuary landward of the dividing line to the status of internal waters seaward of which would be the territorial sea belt.

The Government of the United States considers that these provisions are contrary to international law as understood by

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it and as reflected in the Convention on the Territorial Sea and the Contiguous Zone adopted at the First Law of the Sea Conference at Geneva in 1958. Article 7 of that Convention sets forth the principles governing the status of bays, the coasts of which belong to a single State. By the provisions of Article 7 closing lines for such bays must not exceed twenty-four miles. With the exception of bays whose coasts belong to a single State there is no known basis in international law for coastal States claiming the waters of a bay (or estuary) beyond the limit of the territorial sea measured from low water mark on the coast as the baseline. Thus, in the case of a multi-national bay the waters of the bay outside the territorial sea along the coasts must be regarded as high seas. Agreements between the coastal States of a multi-national bay cannot be considered to be binding on others than the parties to such agreements or to affect the rights of non-parties under international law.

It is noted that the parties to the Declaration of January 30, 1961 purport to base their action on Article 13 of the above Convention on the Territorial Sea and the Contiguous Zone. However, that Article relates to rivers which flow directly into the sea which is not the situation of the River Plate which flows into an estuary or bay. Furthermore, it is the view of the United States Government that the provisions of Article 13 relate only to rivers which flow directly into the sea from the territory of a single State and not to rivers whose coasts belong to two or more different States.

For the reasons indicated above, it is the opinion of the United States Government that the provisions of the Declaration of January 30, 1961 so far as they purport to be applicable to others than the parties to the Declaration are inconsistent with general principles of international law and are not supported by the provisions of Article 13 of the Geneva Convention referred to. Accordingly, the Government of the United States reserves its position on the Declaration and does not regard it as affecting in any way its rights and those of its nationals under international law."

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